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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT Application of
Geen, *et al.*

Group Art Unit: 2661

Application No. 09/629,057

Examiner: Van Kim T. Nguyen

Filed: July 31, 2000

For: SCALABLE VOICE OVER IP SYSTEM CONFIGURED FOR DYNAMICALLY
SWITCHING CODECS DURING A CALL

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August 25, 2004

RESPONSE TO FINAL OFFICE ACTION UNDER RULE 116

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

Technology Center 2600

This is in response to the Final Office Action mailed June 30, 2004.

Reconsideration and allowance of the above-identified application are respectfully
requested.

Claims 1-58 are pending in the application.

The indication of allowable subject matter in claims 2-15, 17-22, 24-28, 30-43 and 45-
58 is acknowledged with appreciation.

The rejection of claims 1, 16, 17, 23, 29 and 44 under 35 U.S.C. § 102(e) as being
anticipated by U.S. Patent No. 6,445,697 (Fenton) is respectfully traversed. Applicants
respectfully submit that the claims 1, 16, 17, 23, 29 and 44 cannot be anticipated by Fenton for
the following reasons.

Applicant first responds to the Examiner's interpretation of the pending claims. On
pages 3-4 of the Office Action, the Examiner argues that:

In response to applicant's argument that the references fail to show
certain features of applicant's invention, it is noted that the features upon
which applicant refers (i.e., request to initiate a change to another resource
having a different compression during a call, not result in an audible click, not
initiated by processor) are not recited in the rejected claims. Although the
claims are interpreted in light of the specification, limitations from the

specification are not recited into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicants agree with the Examiner that the claims must be read in light of the specification without inserting limitations from the specification into the claims. All rejected claims 1, 16, 17, 23, 29 and 44 recite these elements a call, first and second media channels, and that the first and second media channels transmit respective first and second media streams at respective first and second compressions.

The broadest reasonable interpretation requires the second compression to be different than the first compression and the first media stream to be different than the second media stream. For example, the specification describes that the subscriber may request that the media server play a stored e-mail message, in such case, the media server sends the text to a text to speech converter, configured to generating audio samples at 64kbs. Hence, the text to speech converter outputs G.711-encoded media data to the media server, which is incompatible with the internal G.729 codec activated by the IP telephony gateway for the first media channel. Thus, the first media channel utilizing the G.729 codec is closed and a second media channel opened based on the G.711 codec. See pages 5, line 22 through page 6, line 7 of the present application.

Thus, interpreting the claims in light of the present specification:

- (1) the second media stream must clearly be different than the first media stream,
- (2) the second media stream must be transmitted at a different compression than the first media stream, and
- (3) the first and second media streams must be transmitted on the same call.

Applicants have read no limitations from the specification into the claims.

On page 4 of the Office Action, the Examiner further argues that:

Specifically, as the claims only recite “*initiating closing of the first media channel based on a request for a resource utilizing a second compression*” without specifying the resource utilizing a second compression is different from the resource utilizing a first compression, and since Fenton does disclose a resource with a second compression (different codecs, col. 5: lines 15-col. 6: line 57), this limitation is met by Fenton.

Applicants respectfully submit that this interpretation by the Examiner is both

nonsensical and unreasonable, and the Examiner is improperly ignoring claim elements. As discussed above, all of the rejected claims 1, 16, 17, 23, 29 and 44 recited a “first media stream” and a “second media stream.” The first and second media streams must be different, especially since there is no reason whatsoever to perform the claimed “initiating closing based on a request for a resource utilizing a second compression” unless the second compression is different!

The Examiner further argues that:

Applicant also argues that “*Fenton does not disclose closing a first media channel and starting for the call a second media channel. Rather, codecs are switched on the same media channels, which may result in an audible click*” and “*The change of compression in Fenton is initiated by the processor to allow the use of a fifth channel by another subscriber.*”

Applicant seems to imply these are exclusive limitations of the claims.

However, as Examiner interprets a first media channel as a channel with a first codec and a second media channel as a channel with a second codec, and since the “not result in an audible click” and “not initiated by the processor” are features not being recited in the claims, and since Fenton discloses changing a first media channel to a second media channel (by closing a channel with a first codec and starting a channel with a second codec), in response to request by another subscriber (cols. 2-7); thus, these limitations are met by Fenton.

The Examiner improperly ignores the claim elements “first media stream” and “second media stream” and both being on the same call in his interpretation of the pending claims. More fundamentally, the Examiner ignores the claimed “initiating closing the first media channel.” As shown in present Fig. 2, the first channel is closed (steps 62, 64) and new (second) channel is opened (steps 66, 668). Any other interpretation is inconsistent and hence unreasonable.

As pointed out by the Examiner above, Fenton teaches different calls, namely one of media channels 1-4 and new media channel 5. Fenton teaches that the same media on one of media channels 1-4 is transmitted at a different compression when media channel 5 is being used. There is absolutely no teaching in Fenton to use a second media stream different from a first media stream on the same channel, nor using different compressions for the media streams on the same call.

Applicant now turns to Fenton. On page 2 of the Office Action, the Examiner argues

that:

allAs shown in Figs. 1-35, Fenton discloses establishing a call having a first media channel with an IP telephony gateway (20), the first media channel configured for transmitting a first media stream according to a corresponding first compression (transmits between zero and four channels according to codec 1; col. 7: lines 1-5); initiating closing of the first media channel based on a request for a resource utilizing a second compression (if a fifth channel is requested, degrades one channel between zero and four so it can transmit according to codec 2); and starting for the call a second media channel, configured for transmitting a second media stream according to the second compression, upon closing the first media channel (starts transmitting on the channel according to codec 2; col. 7: lines 5-11).

Applicants respectfully dispute the Examiner's reading of Fenton. All claims 1, 16, 17, 23, 29 and 44 require initiating a call and closing the first media channel transmitting a first media stream and opening a new second media channel for transmitting a second media stream having a different compression than the first media channel on the same call. As discussed above, the first media stream cannot be the same as the second media stream, especially when read in light of the present specification.

Fenton does not teach transmitting different media streams on the same media channel. Furthermore, the first media channel in Fenton is not closed as alleged by the Examiner. Fenton only teaches transmitting the same media stream at different compression rates on the same channel, depending on whether a fifth media channel is needed, not closing the first media channel and starting a different second media channel transmitting a second media stream for the same call. See column 6, lines 30-35 of Fenton, which clearly teaches that codecs are switched on the same media channel, which may result in an audible click. This teaching in Fenton cannot be interpreted as closing the media channel and opening a new media channel transmitting a different media stream. For these reasons alone, Fenton cannot anticipate any of the claims 1, 16, 17, 23, 29 and 44 the Section 102 rejection should be withdrawn.

Furthermore, Fenton discloses that the gateway makes its own determination to change codecs for its own calls based on detecting an increased number of calls. See column 7, lines 1-10 of Fenton which teaches "as gateway traffic varies between zero and four channels, each channel will be assigned to codec 1. If a fifth channel is requested, the host

processor recognizes that it must dynamically associate one of the channels one through four with codec 2 in order to service the fifth channel.” The change of compression in Fenton is initiated by the processor to allow the use of fifth media channel by another subscriber. No subscriber would initiate a change in compression from codec 1 to a lower quality codec 2 during a call for the same media stream.

In contrast, all claims 1, 16, 17, 23, 29 and 44 require closing a first media channel “based on a request for a resource utilizing a second compression” and opening a second media channel transmitting a second media stream at a different compression. As discussed above, the subscriber may request that the media server play a stored e-mail message, in such case, the media server sends the text to a text to speech converter, configured to generating audio samples at 64kbs. Hence, the text to speech converter outputs G.711-encoded media data to the media server, which is incompatible with the internal G.729 codec activated by the IP telephony gateway for the first media channel. Thus, the first media channel utilizing the G.729 codec is closed and a second media channel opened based on the G.711 codec. See pages 5, line 22 through page 6, line 7 of the present application. The processor of Fenton does not close a first media channel and open a second media channel, it only changes compression of the same media channels based on capacity issues. There is absolutely no disclosure in Fenton of closing a first media channel and opening a second media channel for the same call based on a request for another resource. For this reason alone, the Section 102 rejection should be withdrawn.

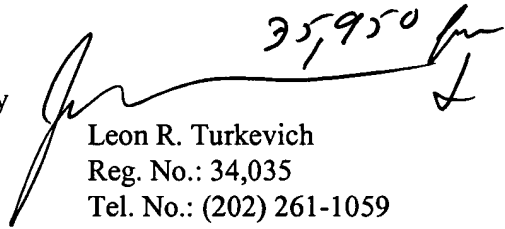
Since Fenton does not disclose all of the claimed features, Fenton cannot anticipate claims 1, 16, 17, 23, 29 and 44. Accordingly, withdrawal of the Section 102 rejection is respectfully requested.

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Since all of the objections and objections of record have been addressed, it is believed that the application is in condition for allowance and Notice to that effect is respectfully requested.

Respectfully submitted,

By

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Leon R. Turkevich
Reg. No.: 34,035
Tel. No.: (202) 261-1059
Fax. No.: (202) 887-0336

Customer No. 23164